



L 3 2224 7/9

A XXXV.

18/6

by H. F. Fielding?

THE
CHARGE to the JURY:

OR, THE

Sum of the Evidence,

ON

The TRIAL of *A. B. C. D.* and *E. F.*
ALL M. D.

On the DEATH of one
ROBERT at *ORFUD.*

(Price One Shilling.)



THE
CHARGE to the JURY :
OR, THE
Sum of the Evidence,
ON
The TRIAL of *A. B. C. D.* and *E. F.*
ALL M. D.

For the DEATH of one
ROBERT at *ORFUD*,
AT A
Special Commission of *Oyer and Terminer*
held at *Justice-COLLEGE*, in *W——ck-
Lane*,
BEFORE
Sir *ASCULAPIUS DOSEM*, Dr. *TIMBERHEAD*,
and Others, their Fellows, Justices, &c.

— *Tempus erit magno cum optaverit emptum
Intactum Pallanta.* VIRG.

L O N D O N :
Printed for M. COOPER, at the *Globe* in *Pater-noster-
Row.* 1745.



AT a special Commission of *Oyer* and *Terminer*, held at *Justice College* in *W—k Lane*; before Sir *Æsculapius Dosem*, Dr. *Timberhead*, and others Justices, &c.

A. B. C. D. and *E. F.* all *M. D.* were indicted for the Death of one *ROBERT* at *ORFUD*; and the Trial (which was very long) being over, Sir *Æsculapius* proceeded to sum up the Evidence in the following manner.

Gentlemen of the Jury;

A. B. C. D. and *E. F.* stand indicted for the Death of one *Robert* at *Orfud*; the said *A. B.* for that he, with a certain *deadly Instrument*, called a *LICKLIVERUM LITHONSKIPTICUM*, the Body of the said *Robert* at *Orfud* did pill and potion. And the said *C. D.* and *E. F.* for being comforting, aiding, abetting, prescribing, dosing, pilling, and potioning.

As to the Objection, which the Defendant's Council took to the Indictment, viz. That the Word *Lithonkipticum* is nonsensical and illiterate, for that it should be *Lithoskipticum*, as the *Greeks* in all their composite Words of this kind do reject the

n final, of which they gave many Instances : This hath received a very sufficient Answer from the other Side, the Word having been always used by the Defendant in this Sense, and in this spelling. I shall now therefore enter into the Evidence ; but before I do so, Gentlemen, I think it my Duty to observe to you, that this is a Prosecution of a very singular kind. The whole Offence charged on the Defendants is a Mistake only ; for which, if you should convict them of it, they will be entitled to their COLLEDGE, *i. e.* their Clergy.

I must observe farther to you, that this Trial is brought on by the Culprits themselves, or their Friends, who being dissatisfied at the Report spread abroad by one *Narrative*, have insisted on this solemn Delivery by their Country.

It is your Charge therefore to enquire whether they be guilty of this Indictment.

And, Gentlemen, the Evidence which hath been laid before you to prove it may be reduced to these Heads.

First, That the *Culprits* have asserted, *that there is very little or no Blood in the human Bladder* ; whereas in Truth and in Fact there is Blood there. And this, Gentlemen, is laid to be an Error in Opinion.

Secondly, That the *LICKLIVERUM* was potioned and prescribed into the deceased in very large Quantities.

Thirdly,

Thirdly, That no Man alive, unless one of the *Culprits*, knows what this *LICKLIVERUM* is.

Fourthly, That every Man knows it did the Deceased no Good, and therefore the long Continuance of it was contrary to all good Practice, especially as it may be supposed to have done him Harm, &c. And these three last, Gentlemen, are laid to be Errors in Practice.

In order to prove this Charge on the Defendants, they call for the Prosecutor, first, *Serjeant John Narrative*. In what Capacity this Person is a *Serjeant, non constat*: but by the Treatment which he hath received from the Culprits, and their Witnesses, I think you cannot take him for more than a *Serjeant of the Foot-Guards* at the highest.

The *Serjeant* I must confess hath given you a very plain, succinct, and I believe impartial Account of this Affair. It will be needless for me to repeat his Evidence over to you; the rather, as he seems so far from designing to raise any Charge against the Defendants, that those Particulars, which appear to affect them, (if indeed any do) have been *extorted* from him by the Prisoners themselves and their Council, and have, to say the Truth, been principally made material by *their Defence*.

The Serjeant tells you, that one of the Culprits was of opinion, that the Bladder, being furnished with but few Blood-Vessels, could not supply any great Quantity of Blood; and that another went still farther, and asserted, that ALL Discharges of Blood flowed not from the Bladder, but from the Kidneys. He tells you likewise, that the *Lickliverum* was prescribed in very great Quantities, a very great number of Ounces, and that it was potioned into the Deceased. He seems likewise to be of opinion, that the Deceased did not receive any great good from this potioning; which may indeed be somewhat concluded from one Circumstance agreed, as it is, on all hands; and that is, that he grew daily worse and worse.

In the next place, Gentlemen, they endeavour to produce the Authority of one *Aretæus*, who directly affirms, as they say, that *there is Blood in the Bladder*. Now the Council for the Prisoners have very properly objected to the reading this Evidence: for first, this *Aretæus* is a very ancient Author, and it is possible what was Practice in his Days is by no means Practice now. He is to be considered as a mere *Physical Year-Book*, and is most probably contradicted by a hundred subsequent Cases. There is a Case expressly in point to this Purpose, where the Question being

being, whether or no the Heart was on the left Side, and the Liver on the right, as was supposed by the Antients, it was held, that the *Colledge had now altered all that.* And surely nothing can be more consistent with Reason ; for if it be admitted, that the human Body undergoes so total a Change in seven Years, as not to contain a single Atom of its former self, what Change may we not suppose it to have undergone in seventeen hundred ? So that tho' the Bladder might contain Blood *Tempore Aretæi, non sequitur*, that it doth so at this Day.

Secondly, he is a *Greek*, and *Græcum non potest legi, cannot be read in Evidence* : for why, Gentlemen, should the Physic of the *Greeks* be more binding to our Physicians, than their Theology to our Divines, or their Statutes to our Lawyers ? Of this Evidence therefore, Gentlemen, you are to take no notice ; for, as it was well said at the Bar, it would be very hard if Men should be governed by Authorities, which the Law doth not intend them to be able to read : And very great Inconveniences might ensue from admitting such kind of Evidence ; no less perhaps than the total Subversion of the present established Rules of Physic. Many a *good Judgment* might be reversed, under which the Patient hath been long time at peace in his Grave ; for some obscure Point in *Galen* and *Hippocrates* might

might prove that he was not committed
thither *secundum artem*.

The next Witness, Gentlemen, is Mr. *Advice*, who tells you, That *to go on to plie the deceased with the Lickliverum when Matters proceeded from bad to worse (to say the least of it)* favours of *Obstinacy*. He then proceeds to make many Reflections on the Proceedings of the Defendants, which he avers the Truth of by a very strong Figure in Speech, *viz. Passing them over in Silence*.

This, Gentlemen, is the whole Charge against the Defendants, and so slight a one might, in my Opinion, have been very well over-looked by them, without *endeavouring to bring themselves to a Trial*; nay, they might have left it with you safely on their Trial, without attempting any Defence: For I must observe to you, that as to all the latter and principal Part of the Charge, there is not a Tittle of Evidence. However, as they have thought proper to go into their Defence, it is my Duty to lay it before you.

As to the many Scurrilities which their Witnesses (particularly one *Hack*, of *Grub-street*) have thrown on the Character of the Scrjeant, they give me only occasion to lament that Trials of this kind can never be carried on without them: But I cannot help taking notice, that as they are improper and

and unjust, so they are totally without Cause: For, as the Serjeant could not have omitted what he hath done, without being a dishonest Man; so, it is impossible for any Man in doing it, to preserve more Candour towards the Defendants.

Who, Gentlemen, in their Defence, call you one Mr. *Anonymus**? And he tells you, in order to induce you to believe that the Culprits were not mistaken, that the Blood-Vessels of the Bladder are small in comparison of those of the Kidneys †, and therefore less likely to throw out large Quantities of Blood. And he tells you that *the Mother of the Deceased had a Stone in her Kidneys* †; a very strong Argument, Gentlemen; if strictly attended to; especially if you consider it was, as he tells you, only a Suspicion; that one of the Culprits was never *positive in his Opinion* ||, till 40 Ounces of Blood occasioned a more positive Declaration ** from him. So that, Gentlemen, if you believe this Witness, no *positive Opinion* can even at last be charged on him: And surely it would be the hardest Case imaginable to punish a Man only for *suspecting* a Stone to be in the Kidneys, when any Man alive without being either a Physician or a Conjurer, might almost have sworn that this Suspicion was true.

As

* Letter from a Physician in Town to another at *Bath*.

† Letter, p. 5. † Ib. p. 7. || Ib. p. 5, & 8.

** Ib. p. 5.

As to another of the Culprits, the Witness tells you, That upon the Relation which the Deceased made of the Case ; he being desired to give his Thoughts without being first permitted to confer with the former Culprit, declared his Opinion to be, That the Deceased HAD A STONE IN HIS BLADDER † : For which soiemn Declaration, the Witness gives you several Reasons, and amongst the rest, his Mother's having had one before him.

He goes on, Gentlemen, and tells you, that upon the Deceased his doubting whether this Opinion was right, the said Culprit was farther of Opinion, THAT HE SHOULD BE SEARCHED ‡. And surely, Gentlemen, there could be no fairer Method of trying whether he was in the right or no. To which I add, the excellent and conclusive Reason given by the Witness for this second Opinion, *viz.* *In order before they took any Method to dissolve it, that they might come at a Certainty whether there was a Stone in the Bladder, or no ||* : Concluding, doubtless, that, if there was none there, no *Lickliverum* in the World could dissolve it.

The Witness next applies himself to a Branch of the Indictment, upon which no Evidence was given, *viz.* That no Man alive, except one of the Culprits, knows what this

† Letter, p. 6. ‡ Ib. p. 8. || Ibid.

this *Lickliverum* is. I shall however, briefly collect the Substance of what he hath delivered hereon.

And, Gentlemen, he tells you, first, that one of the Culprits who agreed to this Dose, did not know what it was, yet he knew *what the other Culprit had declared to any body that asks about it* *.

Secondly, That this other Culprit is not obliged to expose the Composition of this Dose to the World, because, First, *He hath given it to his Apothecary*. Secondly, *Because he is not obliged to give his Apothecary a pecuniary Gratification in its stead* †.

Thirdly, *He did once intend to have made it public, but changed his Mind*; because, First, *another Apothecary might not make it so well*; and secondly, *might not sell it so cheap* ‡.

In the next place; Gentlemen, this Witness tells you, in direct Contradiction to the Evidence of Mr. *Advice*, that Matters were so far from going from bad to worse, that it was impossible they should do so, for that the bad *Symptoms being constant before*, *could not be afterwards more than constant* ||: And in another Part of his Evidence, this same Witness hath told you, that Matters were bad *enough before this*

* Letter, p. 10.

† Ib. p. 11.

‡ Ib. p. 12.

|| Ib. p. 15.

Lickliverum was applied. So that you cannot conclude that they proceeded from bad to worse by the Use of that Medicine ; and whether they proceeded from bad to better is not material, nor the Subject of your Enquiry ; nor is any such Thing attempted to be proved to you : for no such Proof is expected from the Defendants.

The Serjeant had told you, that the Flux of Blood on *January* was more than ordinary. BE IT so, says the Witness, *more than what the Deceased ordinarily had*, (i. e. I suppose when he was well) *but was it almost pure Blood, was the Discharge such, that it could not with any Justice lay claim to the Name of Urine* * ? Now, Gentlemen, as to that you are to know that there are two Sorts of Urine. Urine in Fact, and Urine in Law. The former of these being Urine proper, or that which hath all the Qualities of Urine, *viz.* Colour, Smell, &c. The latter is that, which tho' it hath not any of these, may, however, *with some Justice, lay claim to the Name of Urine*, as undoubtedly this must : First, as it was not pure Blood : Secondly, as it came from the Bladder, where very little or no Blood is : Thirdly, as it came through a certain Vehicle designed by Nature not for the Conveyance of Blood, but other Liquors ; and in Persons of the Age

* Letter, p. 16.

Age of the Deceased, for the Conveyance of Urine only. And, Gentlemen, from what do the several Liquors which distil from the human Body take their Names, but from the particular Parts whence they flow ? Thus, what distils from the Pores is called Sweat ; what is discharged by the Mouth, Spittle ; those which come from the Ears, Nose, Elbows, &c. have all their several Appellations derived from their several Conduits, tho' some of them very much resemble each other. And thus, Gentlemen, this Liquor flowing through that Part often mentioned to you in the Course of this Evidence, may certainly *with some Justice lay claim to the Name of Urine.*

The Witness goes on in these Words :
 " Had the Discharge of Blood been greater,
 " was it not succeeded by the voiding a con-
 " siderable Quantity of gritty Matter of the
 " Colour of common House-Sand ? And
 " was not *this Discharge* a Reason for the
 " Culprits to proceed with the *Licklive-
 " rum* ; especially as one of them declared
 " his Opinion to be, that the gritty Matter
 " or Gravel that then came away, was from
 " a soft Stone half dissolved and crushed in
 " the Passage ; which Opinion seems *fa-
 " voured* by the Greatness of the Pain the
 " Deceased suffered ?" *

This Evidence, Gentlemen, the Council for the Prosecution have endeavoured to

ridicule ; and one of them in particular hath asked, whether this *great Discharge of Blood and Stones* FAVOURED with the Greatness of Pain, might not occasion that Fever of which they would have you believe the Deceased had all the apparent Symptoms, and of which they would likewise insinuate that he died. And then, Gentlemen, they ask, with a Sneer, whether this Discharge and Pain were the Recommendations of this *Lickliverum* ?

On the other Side, Gentlemen, it is very well answered by the Council for the Defendant, That PAIN, notwithstanding the Opinion of the Vulgar, is one of the best Symptoms which a Physician can wish to produce. * That a very wise Sect of ancient Philosophers maintained it was no Evil, in which Opinion the learned Faculty do concur ; with this Difference only, that the Stoicks speak of themselves, and the Doctors of their Patients. That Pain is one of the greatest Privileges which Life can boast over Death ; nor can Death ever come while the Physician can preserve the Patient in Pain : For during the Continuance of that wholesome Symptom, no Mortification happens either to the Patient or his Doctor. And all this, Gentlemen, they confirm from two Cases in Point. The first is in *Sydenham's Reports*, Fol. . *Pain is Nature's most bitter Medicine.* The other is in a Book

of as high physical Authority as most extant. I mean, one of the learned Dr. Molliere's Physical Essays; where the Doctor having asked his Patient how he does, he answers, *In great Pain*; to which the Doctor replies, *So much the better*.

But, Gentlemen, the *Lickliverum* can not only produce that wholesome Symptom Pain; it can likewise give that more pleasant one, Ease: Which the Witness tells you, happened to the Deceased, after voiding a small Stone and some Gravel. The only Doubt which the Witness makes here, is, whether that Effect proceeded from the *Lickliverum*; and the only Reason of his Doubt is, that *the very same had happened to the Deceased more than once, in the Country, before any of the Lickliverum had been potioned into him* *. So that, Gentlemen, you see this *Lickliverum*, concerning which the Defendants are questioned, is one of the most sovereign Medicines in the World, having indeed, the contrariant Qualities of that excellent Weed *Tobacco Hic*; and indeed it were well to be wished, that the Defendant, who is possessed of this invaluable *Nostrum*, would now communicate it to the World, seeing that one Apothecary, after this Publication of its great Virtues, will never be able to make enough to answer the general Demand; especially since there is, as the Witness informs you, *some*

Nicety in the Preparation, which cannot well be HIT OFF, but by one who hath made the Medicine often *. Non ex quovis Ligno fit Lickliverum Lithonskipticum.

The Witness being asked by somebody, (I don't know whom) why the Defendants did not settle the Point whether the Blood was discharged by the Kidneys or the Bladder ; answers, because they did not debate it : For, says he, *if they had debated it, BEING ALL FRIENDS, they would have UNDOUBTEDLY agreed in Opinion, as they ALWAYS did in what was the Subject of their Debates* †. And this must infuse into you an Opinion of their great Good-Breeding.

The Witness then, Gentlemen, goes on to account for the Hopes which the Defendants entertained that the Deceased might recover. Upon this Head I own he is a little confused ; which I must observe to you generally happens when any Person begins with these Words, (as the Witness does) IN ORDER TO CLEAR UP THIS POINT. However, he tells you in express Words, " That " there was a Loss of at least forty Ounces " of Blood in the compass of a few Hours ; " and this in a Man who never bore bleed- " ing well, being always faint and low af- " ter taking away any considerable Quan- " tity, and who was now near seventy Years " of Age, which might very well occasion

" the

* Letter, p. 12.

† Ib. p. 19, and 20.

“ the Symptoms the Serjeant mentions ; as
 “ the Coldness and Clamminess of his
 “ Hands, the sinking of the Pulse, and the
 “ leaping of the Tendons, which the Wit-
 “ ness says, he makes no doubt was
 “ the Case *.” Now, Gentlemen, I must
 own that this Evidence, at the first
 Blush, seems to make against the Defendants,
 and a Person with no Imputation of being
 illiterate, if he was not an Adept in *Arte
Medica*, might have some Difficulty to find
 out on which of these Symptoms, or whether
 on all taken together, the Defendants
 founded their Hopes ; and accordingly the
 Council for the Prosecution have triumphed
 greatly, telling you facetiously, that a rea-
 sonable Man could not *hope* for above a
 Fee more at the most. To this however, a
 very satisfactory Answer hath been given by
 two *Dicta* of great Authority, which have
 been cited on the other Side, and by which
 I must say, the Defendants were fully justi-
 fied in the Hopes they entertained ; and
 both these *Dicta* are expressly in Point.
 First, *That while there is Life*, (and that
 it is acknowledged on all hands there was)
there is HOPE. Secondly, *That when
Things are at the worst* (which was cer-
 tainly the Case here) *they will mend*.

In the next place, Gentlemen, the Wit-
 ness speaks to the Character of Mr. *Advice*,
 who he says, with some Bitterness, is a *Physi-
cian*,

* Letter, p. 20, 21.

fician, and a Man of Learning, HE HOPES NOT OF THE COLLEGE * ; indeed I hope so too. Now I must observe to you, that however scandalous the Character of a Man of Learning may be in any Society, and that on very wise and good Grounds, yet such Character cannot impeach his Evidence : for tho' perhaps it is highly fit and proper to discourage Learning in all Professions, and we accordingly see it practised in them all ; yet the Characters of Learning and Honesty imply no absolute Contradiction, and may be intended so to stand together, that it is not a sufficient Exception to the Belief of what such a Person deposes.

The next material Circumstance which the Witness tells you, is, Gentlemen, in Answer to the Serjeant who had said, that
 " What put them on pressing the Opera-
 " tion of the *Catheter*, was to draw from
 " the Bladder the grumous Blood, and
 " thereby restore that Vessel to its former
 " Tone."

Here, says this Witness, was abundant room for Reflection ; here was indeed an Error, and one that needed no Aggravation. THREE GRAVE and learned DOCTORS, sitting in deep Consultation, take it into their wise Heads, that Clots of coagulated Blood may be drawn off thro' the Catheter ! He then proceeds to this Question : Now in this Particular, who doth

* Letter, p. 21.

" not

" not see, that the whole is owing to a
" little piece of Inadvertence in the Ser-
" jeant, who should have said, the Physi-
" cians proposed to draw off the Urine"*.

To this, Gentlemen, the Council for the Prosecution have attempted to reply ; That this could hardly be the Meaning of the Doctors, because the Serjeant had already told you, that " at this time, the Urine impregnated " with this grumous Matter, RATHER EX- " CEEDED IN QUANTITY ALL HE DRANK ; " wetting four or five and thirty Napkins " every twenty-four Hours." To this they add an Expression, which hath before dropt from the Defendant's Witness ; that the Deceased was attended with ALMOST INCES- SANT MICTURITION ; so they would per- suade you, Gentlemen, that the Defendants could have no such Motive for this Opera- tion of the *Catheter*, unless you will be- lieve they desired the Deceased should, by an artificial Method, do that with Pain, which Nature incessantly prompted him to do without it.

But I must observe to you, Gentlemen, that this Argument proves too much. Had the Urine of the Deceased equalled the Liquors which he drank, I own indeed it might be some reason for you to conclude, that he had none left in his Bladder, and consequently there was no occasion for a

D *Catheter*

* Letter, p. 28, & seq.

Catheter to draw it away. But as the Serjeant himself informs you, that it *exceeded* that Quantity, *non constat* how much it exceeded. As therefore this Urine must proceed from some other Cause besides that of Drinking, which Cause no Law extant can oblige the Defendants to have known, I cannot see why the Defendants should be concluded from saying, that they used the *Catheter* to draw off the remaining Urine, how great soever the Discharge was in the natural Way. When all the Liquor put into a Bottle is drank out of it, he would be esteemed a silly Fellow who should apply a *Hyphon* to draw off the rest: For, commonly speaking, no more Liquor can ever be poured out of a Vessel than is before poured into it; but if we admit, as the Defendants have here, that any Vessel contains more Liquor than was ever put into it, this Excess can never be reduced to any Certainty; so you may *hyphon* and *catheter* on to Eternity.

The Witness then proceeds in the last Place to ask of himself this IMPORTANT Query? *What was it that the Deceased died of?* And here I must confess (says he) I am greatly at a loss for a clear and satisfactory Answer. He then shews the several Things which could not occasion his Death, and at last concludes, *that if that Diarrhoea, which at last hastened his Death,*

Death, could have been stopt, he might not have died †.

This, Gentlemen, is the Evidence on both Sides; and I must observe to you, first, with Relation to the Error in Opinion with which the Defendants are charged, *viz.* That the Bladder contains none or very little Blood; the Defendants must be acquitted. *First*, Because if you believe their Witness, they were in reality of no Opinion at all. *Secondly*, Because, except the Evidence of *Aretæus*, which, as I have observed to you, ought not to be read, and therefore, tho' it hath been thrown out to you at the Bar, you ought to lay no Weight upon it: Except this. I say there is no other Evidence that this is not true in Fact; besides the Serjeant's Opinion, who, Gentlemen, may be himself mistaken: And, *Thirdly*, Because it appears to you, that in Fact he is mistaken: For, as it was urged by the Council, Nature never makes one Thing for several Purposes, and therefore, as we all know, that the Bladder was intended to contain two Things, *viz.* Urine and Wind, it would be highly unreasonable to look out for a third Use.

Now, Gentlemen, with Regard to the *Lickliverum*, the only Question is, Whether you can imagine that occasioned, or at least contributed to the Death of the De-

ceased, and this most certainly you cannot : For, as there is no express Proof on this Occasion, you are to intend every thing in favour of the Defendants; two Points have been therefore well insisted on by their Council. In the first place, undoubtedly true it is, that a Man may die without taking this *Lickliverum*. This is too plain to require any Proof. *Secondly*, A Man may take this *Lickliverum* without dying : For, as the Defendants Witness hath told you, *one of the Defendants himself hath taken twice the Quantity in the same Space of Time*. This Evidence was indeed objected to ; but the Objection over-ruled by the Court : For tho' it is admitted to be the general Presumption, that no Physician ever takes his own Thysick, yet *stabit Præsumptio donec*.

But, Gentlemen, I must observe to you, there is one very material Circumstance, and which must absolutely acquit the Defendants, whatever might be your Opinion on the other Points. And this is, Gentlemen, that it is so far from being proved to you, that the Deceased is in Reality dead, that the contrary is most probable, if not absolutely certain : For as the Defendants Witness hath told you that he cannot tell what the Deceased died of ; and as we must suppose he hath had frequent Communication with all the Defendants thereon ;

thereon ; (indeed many Parts of his Evidence seem necessarily to come from the Defendants themselves :) a Circumstance which I do not mention in this particular Case to invalidate it ; for I believe the honest Man hath told yon all he knows. Now I say, we must hence conclude that none of the Defendants do at this time know of what Distemper the Deceased did die. What then, Gentlemen, is the aptest Inference you are to draw from thence, but that he is not in Fact dead ? For can it be imagined, that after so long an Attendance on him while alive, and even after opening his Body since his Death, that not one of these learned Gentlemen should be able to give any satisfactory Answer concerning the Cause of his Death ? To this I know it may be objected, that whatever Force there might be in this Argument, especially in the Case of great Men, many of whom have been suspected to be alive even after a public Death, as was the Case of *Perkin Warbeck*, the Duke of *Monmouth*, &c. the latter of whom is by some very judicious Persons supposed to be alive even at this Day ; yet, after a solemn Opening of the Body, there can be no Latitude for such Conjectures ; the natural Death of such Body being a Condition precedent, without which there are no Precedents in Practice to justify any such Proceeding. To this I answer by a ver-

ry plain Question : Is it not as likely, nay more reasonable to imagine that this dead Body on which the Defendants sat, was in Reality the Body of some other Man, or even of some other Animal ? Would not the Mistake in this Case be much more easily accounted for, than the Doubt of the other ? Nor is this Mistake at all improbable, if it be considered that one of the Defendants, not making so much Haste to a dead Patient as it is likely he would have done to a living one, did not arrive 'till the Dissection was over : Nor are we to suppose that the others were very curious or solicitous in their Enquiry ; for when the Body is dead, it is out of the Reach of Physic as well as of the Law.

Upon the whole, Gentlemen, I think you must acquit the Defendants.

Which the Jury immediately did, without withdrawing from the Bar.

ADVERTISEMENT.

Shortly will be published

CATALOGUS LIBRORUM
In Arte Medica Præstantium;

O R,

A CATALOGUE of Choice BOOKS
 in the Art of PHYSIC;

Being the LIBRARY of an Eminent Physician
 who hath left off Study.

Which will be sold cheap.

Among many others equally valuable, are the
 following.

- 1 **P**ARACELSI *Opera omnia.*
- 2 **P**criptores cont. Galen. 6 Vols. in
Fol.
- 3 **D**e Inscitia Veterum, & quidem maxi-
mè de Hippocratis Erroribus, Chart.
max.

4 **D**e

4 *De Febri Nervosa* : Being a perfect Theory of the FEVER UPON THE SPIRITS ; a Distemper which first made its Appearance in the City of London, An. 1726.

5 *De Podagra renovanda*, or, a Method of bringing on a Fit of the Gout.

6 *Laus Aquarum* : Being a History of all the Waters in Great Britain ; to wit, *Bath* Waters, *Bristol* Waters, *Holt* Waters, *Chippenham* Waters, *Road* Waters, *Tunbridge* Waters, *Scarborough* Waters, *Althrop* Waters, *Islington* Waters, &c. &c.---- *Sea* Waters. With Directions when to send a Patient to them.

7 *Ars Mathetica* ; or, a short and easy Way of attaining Knowledge Q. S. in Physic, without Loss of Time or Expence ; with two Dissertations on the Use, 1. Of Hospitals. 2. Of the Church-yard.

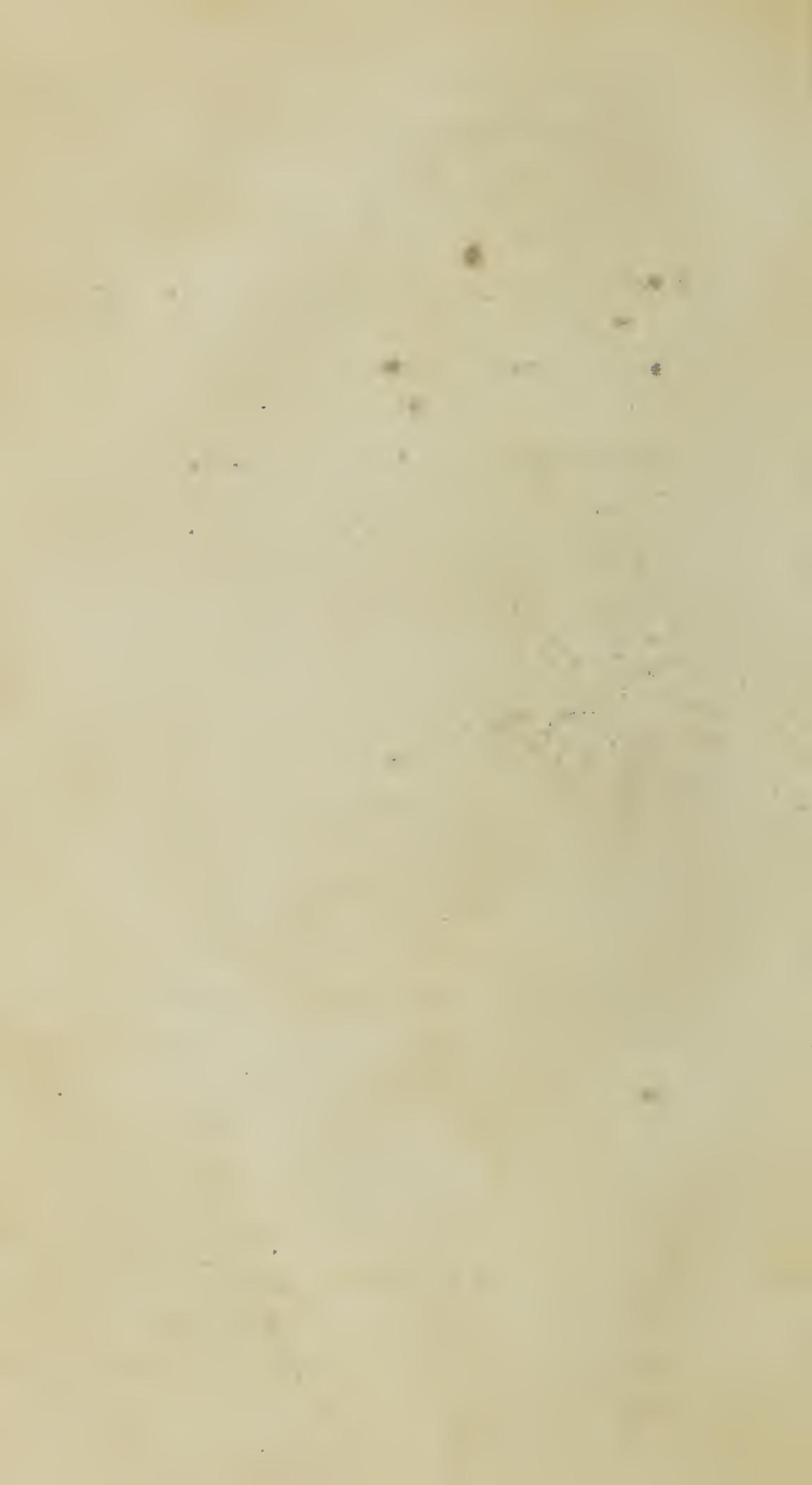
8 *Ars Practica*, or the Method of getting Business and Reputation : Containing the Secret of Puffing, cajoling Apothecaries, &c. To which is added, by way of Appendix, a short Essay on the Countenance, Cane, Perriwig and Chariot.

9. *Liber Aureus*, or *Ars Tactica, omnibus Personis, Locis & Temporibus accommodata*.

N. B. A grave and learned Physician having perused this Book, said, no Practitioner whatever should venture to make a Visit without this little Book in his Pocket.

10 *De Ignorantia celanda*: Being the Art of Prescribing for a Patient without knowing his Distemper.

Note, They are all translated into English.



A

P R O J E C T

F O R T H E

Advancement of PHYSIC in this
 Island, by abolishing the Coll.
 &c. Humbly address'd to the
 the said Society.

GENTLEMEN,

AS the Welfare of the Publick has always been the principal Object of my Studies, it has been no small Concern to me to have observed the Animosities which have at all Times subsisted, and still continue to subsist, tho' in a less Degree, between the different Branches of the Faculty of Physic ; ——— to wit, between the regular-bred Physicians, or your learned Body, on one hand, and those *Autodidacti*, or self-taught Practitioners, on the other ; upon whom the Ancients bestowed the noble Title of *Empiricks*, but whom we Moderns have endeavoured to

degrade, by giving them the less honourable Name of *Quacks*. For my own part, as I look upon both Parties to be inlisted in the Service of the Public, and the former, if I may be allowed the Metaphor, to be the regularly disciplined Troops, the latter, the Hussars and Pandours of the physical Militia, I esteem their Disagreement to be a kind of Civil War, tending greatly to the Prejudice of the Public, whose Pay they receive; and for that Reason, as a hearty Lover of the Community,—I cannot but sincerely wish these Animosities were at an End, and that, for the future, a firm and indissoluble Union might be established between both Parties. I have, therefore, taken the liberty to offer you my Sentiments concerning the most proper Method of effecting such an Union, or bringing about a Treaty of Peace, Unity and Friendship, (as well offensive as defensive) between the learned Society of *W.-r.-k.-Lane*, and the *Empiricks* aforesaid, wheresoever dispersed, throughout this great Metropolis.

It is possible, Gentlemen, that some of you may be startled at a Proposal of this Kind, since, by the Laws of your Society, you

you have obliged yourselves not to treat with your Adversaries, or enter into any kind of Commerce with them, lest you should thereby derogate from the Dignity of your Corps. But if you consider, Gentlemen, the Times in which those Laws were made, (according to the Directions of your Master *Hippocrates*, who in his Book of Precepts, advises you to have a regard to *Times and Occasions*;) and take notice that altho', at the Time when they were made, your Adversaries were but a very inconsiderable Body of Men, (to say no worse of them) yet, as they have been ever since increasing in Dignity, and in the Estimation of People of the highest Rank, you will not, I am persuaded, think it any longer a Dishonour to you to treat them with a little more Respect and Complaisance, especially since the establishing a perfect Harmony and Correspondence between you and them, will greatly tend to promote your mutual Interest.

And, indeed, if one may judge of the Sentiments of your Society at large, by the Behaviour of some of its Members, there is now greater Reason than ever to entertain

tain Hopes of a *Reconciliation*.—Since, if I am not misinform'd, (for I only speak by Hearsay) there are not wanting Instances of some who, (to their Honour be it spoken) have laid aside Ceremonials so far, as to admit these Empiricks to some degree of Favour, and even Familiarity, in private, however reserv'd they may appear to them in public.

To proceed then to my Scheme.—— It is confessed on all hands, that the principal Matter of Dispute between your illustrious Society, and the noble Fraternity whom I have been speaking of, has always been that of Precedency, or, in other Words, *Who shall be uppermost*.—— And it is no Wonder that there should be such a warm Contest between those who are in the College, and those who are out of it, about this invaluable Privilege; since it is universally allowed, by such as understand the true Value of Things, that Rank or Precedency is almost the only Thing in Life which is worth contending for: but if it be worth contending for by others, it is certainly more worthy to be contended for by

Physicians, since the Profession of it is attended with another, less valuable, indeed, but by no means contemptible Acquisition, *viz.* that of Wealth. — The Design of my Scheme is to banish all Occasion of Contention, for the future, by abolishing all Distinctions, and reducing the contending Parties to a level. — You may object to my Scheme, perhaps, as calculated to deprive you of your Right. — But, tho' I am ready to allow that you were, some Ages ago, in Possession of this Privilege of Precedency, yet I cannot so easily allow that you had a Right to the Possession of it. — On the contrary, it appears to me, that, as the Empiricks have got the Start of you in the Estimation of all the polite and fashionable World, so they are, in reality, strictly intitled to that Precedency ; the Possession of which, was formerly, contrary to Reason and Equity, wrested from them.

Your Adversaries Claim to Precedency is founded in two Things : — First, The greater Antiquity of their Sect ; and, Secondly, Their superior Merit. — I shall consider each of these Claims separately ; and

and, if I can make it appear, as I doubt not I shall do, that they are your Superiors in both these Respects, I hope you will then be convinced that I am not going to deprive you of your Rights, but that, on the contrary, you will be Gainers rather than Losers by my Scheme.

I must observe then, with regard to the Antiquity of the Empirical Sect, that, upon the most diligent Inquiry into this Subject, their Claim appears to me to be well grounded. To satisfy myself in this Point, I have consulted most of the Histories of Physic now extant, and shall here present you with a few Observations on the whole.

To begin then at the Fountain-head ; these Histories inform us that *Æsculapius* himself, who is allowed on all hands to have been the Inventor of the Art of Medicine, was, in the strictest Sense of the Word, an Empiric, and used to distribute his Packets in the Streets (as *Herodotus* says) to such as would purchase them ; which only the lowest of our Empiricks do at present : And a learned Countryman of ours,

ours, who appears to have been a Favourer of this Sect himself, affirms that the *Asclepiadean Family*, or the Descendants of *Æsculapius*, who continued to be the sole Proprietors of Physic for about seven hundred Years, were nothing more nor less than a Race of Quacks. The two Sons of *Æsculapius*, *Podalirius* and *Machaon*, whom a late Society, (either out of their Affection to the Art, or to shew who they are descended from) have chosen to be the Supporters of their Coat of Arms, are said to have been very eminent in their Father's Trade ; and even *Hippocrates* himself is supposed by some to have been of this Sect : but as he was not possessed of any *Nostrums*, which are the very Essentials of a true Empirick ; and besides, professed to found Physic upon Philosophy, I cannot allow him the Honour to have been of the Number.

It appears from these few Instances, that the Antiquity of Empiricism cannot, with any Shew of Reason, be controverted ; and that those Historians must have been in an Error, who make one *Serapion* of *Alex-*

andria to have been the Founder of the Empirick Sect. For Quackery must have been as ancient as the World ; and the Reason why *Serapion* had the Honour of being thought the Inventor of it, was because he perfected it, and reduced it to an Art. For it is to him that we owe that great Discovery, which the present Age have taken the Honour of upon themselves, *viz.* That Reasoning and Philosophy are so far from having any Tendency to improve the Art of Physick, that they are in reality a very great Disadvantage to it.

But we need not search into History for Proofs of the Antiquity of Empiricism, since it is plain, from the Nature of Things, that it must be of much older Date than Rational, or Dogmatical Medicine (as I think you call it) which you, Gentlemen of the College, have always profess'd yourselves to be Admirers of: for rational Physick requires the Assistance of many other subordinate Arts, which are not to be attain'd without proper Instructors, long Attention, and hard Study, according to that Saying of *Hippocrates*, *Ars longa, &c.*—

But

But the Facility and Quickness, with which a Man may become an Adept in Empiricism is almost inconceivable ; it requires no previous Knowledge of Languages or Arts, nor beating of the Brains about Causes or Principles, and the philosophical Reason of Things. A Man may learn it without the Assistance of a Master ; it is indeed a Sort of *Gift* (as the Empirics in Divinity have it) and at most, requires some little Help from his Grandmother or his Nurse.

Having thus fully proved the Antiquity of Empiricism, I proceed to my second Head, which is to shew the Superiority of the Empiricks to you, Gentlemen Dogmatists, in point of Merit.— But this is so evident, that I am almost ashamed to undertake the Proofs of it.— The World, in general, and particularly the more Polite, and more exalted Part of them, will readily concur with me in this Opinion.— Time was, indeed, when the Practice of Physick was thought so difficult and important, that none but Men of the greatest Learning, Sagacity, and Abilities were permitted to manage it, and upon this foot your Collge was e-

re&ed ; but the Face of Rhyfick has been much changed since.—Learning has long been out of Date — and no wonder ; for what can be the use of beating one's Brains, and destroying one's Health, to comprehend the Meaning of old musty Authors who lived some thousand Years ago—? Can we suppose the World in its Infancy to have been wiser than it is now in its Maturity ? These Ancients thought, that it was necessary for a Man to be a Philosopher before he commenced Physician ; but are we obliged to think so too ? No surely — for whatever Use Philosophy may be of to the Mechanick Arts, it is now agreed on all hands, that neither Physick nor Divinity were ever yet a Jot the better for it.— But of all Philosophy the ancient, for the Reason just now given, must surely be the worst. — There is a Fashion in Physick, as well as there is in Dress ; but if it would be absurd for us to neglect the present Mode, and dress ourselves up in the Habits of the *Greeks*, is it not equally absurd for us to copy them in the Fashion of their Physick — ?

The World, 'tis true, continued for many Centuries together in a State of abject Submission to these Ancients, and were taught to pay an implicit Regard to the Dictates of an *Hippocrates* or a *Galen*. — And the Matter went so far, that even so late as the time when your Society was instituted, (as I am told) a Man, who was not thoroughly versed in *Galen*, was thought to be as unqualified to practise Physick, as a Divine, who had never read his Bible, was to preach.— But a few shining Genius's at length arose, and assisted us in shaking off the Yoke.— How much are we of this Age obliged to one Man in particular, for informing us that the true Method of becoming Physicians, was not to flock to the Universities, but to apply to *Old Women*, *Conjurors*, *Mountebanks*, and the like? And his Reason for it was, That these sort of People have more Knowledge in Physick, than all the Universities put together. I am so well pleased with the Passage, that I cannot help quoting it; *Medicus non omnia, quæ posse & scire debet, in Academiis discere*

&

Et cognoscere potest, sed opus est, ut interdum Vetulas, Zigeunos, Nigromanticos, Agyrtas, Seniores rusticos & similes adeat, atque ab iis discat. Nam tales de talibus rebus plus habent cognitionis quam omnes Academiae. The learned Reader will easily see, that I am speaking of that great Physician, Philosopher, and Divine, the Profound and Oracular *Paracelsus*.— 'Twas he who laid the Foundation of modern Physick, and we ourselves have had the Happiness of seeing it perfected by the Labours of some celebrated Genius's of the present Age, who have fully shewn us the Reasonableness of excluding Reason henceforward from the Art of Physick, and rendering it wholly Empirical.——

The Ancients, whom we have been speaking of, entertain'd an idle Notion, that the Principles of all Sciences were certain general and metaphysical Truths, which were not the Objects of any of the Senses, but were only discoverable by reasoning: But the wiser Moderns, (those of the empirical Sect I mean) have deservedly rejected all such Speculations as idle Trash; and

and in pursuance of the common Axiom, *that seeing is believing*, are determined to trust to no Evidence but that of *Sense*. In short, it is by the Assistance of these Gentlemen, that all Theory has been long exploded, and put to flight, and the idle Notions of the Ancients concerning Principles and logical Deductions laid aside ; and to them, we may say, it is owing, that Physick is now established on its proper Basis, being neither Dogmatical, nor Galenical, nor Chymical, nor yet Mechanical, but purely Experimental, or Empirical—.

You will say perhaps, that you are willing to allow the Usefulness of *Experience*, but that you think it necessary, that a Physician should have some Principles to go upon, while he is making Observations : that Experience alone is of little use, every one being ready to alledge it in his own Favour, tho' one Man's Experience is often directly contradictory to that of another ; and you may go still farther, and plead the Authority of your Master *Hippocrates*, to shew that *Experience is fallible*. But, without entering into this Dispute, I shall only

only say, that if Experience be preferable to Reasoning, (a Doctrine which is now generally maintain'd) it follows of Course, that the more time is allotted to making Experiments, and the less to Reasoning, the better ; and consequently it would be best of all, if we were never to employ our Thoughts about Theory at all, nor trouble ourselves about Inquiries concerning Principles, the Nature of the human Body, or its Operations.

What a delightful View of the noble Art of Physick is here presented to our Eyes !—And yet to such a Degree of Perfection may we hope to see it brought, would you but heartily unite your Forces with those of the Empiricks for this purpose. It was with a View to promote this worthy Design, that I sat down to propose the Treaty which I have done above ; and it is with the same View that I shall now proceed to lay before you a few Articles, which may serve for a Basis to this Treaty, and which I hope will be received with the same Candour with which they are proposed.—

In the first place, then, as all Monopolies in Trade are hurtful to the Subject, it is humbly proposed, that your Illustrious Society will be graciously pleased voluntarily to surrender the Charter, by which you stand incorporated, to the end that a more extensive one may be procured, and a new Society erected, with the Title of the *Royal College of Empiricks*, into which Practitioners of all Denominations may be admitted without Distinction, provided they can bring Proofs of their being possessed of any *Nostrum*, and will conform to the Laws and Ordinances of the Society hereafter to be made.

Secondly, That as soon as the New Society shall be erected, a Committee may be appointed to draw up a Petition to be presented to Parliament, for Leave to bring in a Bill to prohibit the Use of all Physico-medical Manufactures, (*viz.* Books, &c.) which are either imported hither from abroad, or composed of foreign Materials, to wit, *Greek*, *Latin*, &c. to the end

that Physick may become entirely *English*, and be within the Reach of all Capacities.

Thirdly, That all Members of the New Society be strictly enjoined not to spend any more time in reading even *English* Books than is just sufficient to give them a little Fluency of Speech, and enable them to give a tolerable Answer to such Questions as may be put to them by Nurses, and such kind of impertinent People, who want to have a Reason for every thing which a Physician does.—This being the Use which ought to be made of all Physical Treatises, according to the Opinion of a late eminent and voluminous Empirick, whose Name I need not mention.

Fourthly, In order to make your Society some Amends for the Resignation of their Properties, it is proposed that the Coll—ge of Ph—ns be converted into an Hospital, for the Relief and Maintenance of such of your present Members, as through a wrong Education, or a long Perseverance in what is called a Regular Course of Practice, are unqualified to turn Em-

Empiricks, as well as of such, who, thro' a Principle of Conscience, shall refuse to be admitted of the future College ; and that the Revenues of the said C—ll—ge of Ph—ns be applied solely to this purpose.— Provided nevertheless, that after the Decease of the said Collegiates, it be applied to the Use and Benefit of worn out and disabled Quacks, or to such other Pur- poses, as the Society shall think conve- nient.

I come now to speak of the Advantages which are likely to accrue to your Body, as well as to the Publick in general from such an Union. — With regard to your Body then, all such as are willing to be included in the Treaty, will thenceforward be intitled to the Honourable Denomina- tion of Empiricks, and to the Privileges which Empiricks now enjoy ; namely, those of being caressed and honoured by the Great, and of rolling in all kind of Af- fluence. — And that the Title itself is no inconsiderable Advantage may be inferred from the Behaviour of some who have been so ambitious of acquiring

it, as, for its sake alone, to desert your Body, and to go over to the Enemy. — Of the Truth of which, the Memoirs of some now alive may perhaps furnish them with Instances.

In the next place, the Younger Part of your Society, whose Time is now greatly taken up in intricate and laborious Studies, will then be at Leisure more constantly to attend those Seats of the Muses the Coffee-houses, which are frequented by their Seniors, and will have Opportunities of profiting more by their Instructions, than can now be done by Reading; which will, no doubt, tend greatly to their own Emolument, as well as to the Advantage of the present Age.

Lastly, Both Old and Young will be more at Leisure to frequent Clubs, Taverns and Assemblies, and other such Places whither good Company resort, and will, at the same time, be discharged from that laborious Employment of reading learned Lectures, and making *Latin* Speeches, besides many other

other disagreeable Offices too tedious to be here enumerated.

With regard to the Publick in general. Such as hereafter intend to commence Physicians will reap this great Advantage, that many Years of Life (which are now usually thrown away in Schools and Universities, in learning the Sciences) will, by this means, be saved ; and thus, by shortning the Road to Science, and adding, as it were, to the Life of Man, that Evil, which *Hippocrates* complain'd of in his Time, will be remedied, and it will no longer be said, That *Life is short, and Art is long ; but, that Art is short, and Life is long* ; — and Physicians will become as knowing at Twenty-five, as they are now usually at Fifty : An Advantage which cannot sufficiently be enlarged upon.

Lastly, The Road to Science, being so much shortened, the Number of Physicians throughout his Majesty's Dominions, will, in all human Probability, be much increased, and consequently the Healths of his Majesty's

jesty's loving Subjects will be much better taken Care of, than they are at present. I could easily enlarge upon this Subject.— But a Word to the Wise is sufficient; I shall therefore conclude for the present, with assuring you, that I am, with the greatest Esteem,

GENTLEMEN,

Your most obedient, &c.



